



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

ELP

Docket No. 8515-98

28 April 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 19 March 1959 for six years as an SN (E-3). At the time of your reenlistment, you had completed more than three years of active service. The record reflects that you changed your rate to SHLSN and served without incident until 18 November 1959, when you were convicted by special court-martial of two periods of unauthorized absence (UA) totalling about 88 days. You were sentenced to confinement at hard labor for six months, forfeitures of \$70 per month for six months, reduction in rate to SHLSR, and a bad conduct discharge. Thereafter, the convening authority approved the findings and sentence, but reduced the confinement at hard labor and forfeitures to four months. The Navy Board of Review affirmed the findings and sentence on 21 December 1959. You waived your right to request restoration to duty on 11 January 1960 and requested execution of the bad conduct discharge. You stated "I want out as soon as possible. I have to help out on the farm back home, and I can't wait five years!" You received the bad conduct discharge on 26 February 1960.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your limited education, prior honorable service, good post-service conduct, and the fact that it has been more than 40 years since you were discharged. The Board noted your contentions that you missed ship's movement by accident and remained UA because you were afraid to face the consequences. The Board concluded that these factors and contentions were insufficient to warrant recharacterization of your discharge given your special court-martial conviction of a prolonged period of UA. The Board concluded you were guilty of too much UA during your brief second period of service to warrant recharacterization. Your conviction and discharge were effected in accordance with applicable law and regulations, and the discharge appropriately characterizes this period of service. The Board this concluded that the discharge was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director